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U.S. DOT/FAA/ARM-1
Patrick W. Boyd
Office of Rulemaking

RE: FAA Docket Number FAA-2004-17168-1

Dear Mr. Boyd:

This letter contains my comments to the FAA regarding changes to Federal Aviation Regulations that I believe would be appropriate. While I am tempted to propose drastic, sweeping changes, I will resist that temptation, and instead, focus on practical changes that will improve the quality of life of the aviation community without adversely affecting safety. I will attempt to provide sound reasons for each of my recommendations.

I make these recommendations based on my experience as an airline pilot and a frequent paying airline passenger.

- ⑩ I have about 6,000 flight hours, the majority of which were accumulated as a professional flight instructor and a professional airline pilot.
- ⑩ I have trained dozens of students for private, instrument, commercial and CFI certificates, and have worked for the last 8 years as an airline pilot at two different airlines.
- ⑩ I was an EMB-120 First Officer, Canadair Regional Jet First Officer, and Canadair Regional Jet Captain for Comair Airlines, and am currently an MD-11 First Officer for World Airways.
- ⑩ I have flown in every region of the lower-48 U.S. States, Alaska, Hawaii, and nearly 40 territories and foreign countries.
- ⑩ As a passenger, I normally fly over 100,000 miles of paid airline travel per year on business and for pleasure.

My recommendations will be listed in numerical order. They will begin with the number of the regulation to be amended, the amendment I propose, and the reasons supporting my proposition.

61.18, 63.14, and 65.14 Security Disqualification

These parts are worded such that they require the FAA to deny a pilot certificate based solely on TSA action. This regulation should be totally repealed. It is inappropriate to force the FAA to deny certificates based solely on the recommendation of another organization. Furthermore, the appeal process to remove the TSA threat status exists entirely within the confines of the TSA and is not subject to any outside judicial review. If the FAA is to continue this practice, there needs to be an appropriate, independent review process to prevent the security of the careers of professional aviators from being unjustly terminated by unilateral authority of the TSA.

91.117 (c) Aircraft speed – under Class B airspace

This paragraph should either be eliminated or restricted to VFR aircraft not in contact with ATC. Aircraft flying under Class B airspace and/or in a VFR corridor that are in ATC contact and/or on an IFR flight plan should be subject to the normal 250 KIAS airspeed limitation. This limitation may serve a purpose for keeping the closure speeds of aircraft not in contact with ATC to a minimum, but for those who routinely operate below Class B airspace in ATC contact (frequently at ATC direction), this restriction is unnecessary. In fact, it has the potential to degrade safety due to pilot distraction while attempting to determine the lateral limits of Class B airspace when on an IFR flight plan.

91.211(b)(2) And 121.333(c)(3) Supplemental Oxygen

Amend 91.211(b)(2) and 121.333(c)(3) to add this paragraph:

(i) The requirements of paragraph (b)(2)* need not be met if the pilot leaving the controls will be immediately returning to the controls or will be immediately replaced by a relief pilot, and if the pilot remaining at the controls has a quick-donning type mask that can be placed on the face with one hand from the ready position within 5 seconds, supplying oxygen and properly secured and sealed.

For 121.333 this would read (c)(3).

This will allow for 'quick' seat swaps and/or departures from the seat simply to retrieve an item out of reach without requiring the other pilot to don the oxygen mask. Particularly in a 3 or 4 pilot crew, the time of seat vacancy is typically only a few seconds and then the seat is immediately occupied again. Seat swaps on 3 or 4 pilot crews are frequent. The remaining pilot is very aware of the oxygen requirement during the seat swap operation, but actually wearing the mask adds significant work and even expense (to refill the oxygen more regularly) without really providing any additional safety benefit.

121.311(e)(2) Seats (Seat backs)

This paragraph currently reads:

(2) This paragraph does not apply to seats on which cargo or persons who are unable to sit erect

for a medical reason are carried in accordance with procedures in the certificate holder's manual if the seat back does not obstruct any passenger's access to the aisle or to any emergency exit.

It appears the critical restriction here is that the seat does not block a passenger's access to the aisle or any emergency exit. Limiting this to situations where there is an inability to sit erect, rather than merely a desire constitutes discrimination against the able bodied. The safety requirement is met either way. Thus I would recommend the paragraph be reworded:

(2) This paragraph does not apply if the seat back is operated in accordance with the procedures in the certificate holder's manual and the seat back does not obstruct any passenger's access to the aisle or to any emergency exit.

This would allow certificate holders to include in their manuals a provision that seat backs can be reclined for takeoff and landing if the row behind is completely empty and/or if it is the last row of seats in a section with a bulkhead immediately behind. This would give certain passengers the ability to continue reclining when it would not adversely affect the safety of any other passenger.

121 Subparts (Q), (R), and (S).

121 Subparts Q, R, and S contain regulations limiting flight and duty times for (among others) pilots. There are several different sets of regulations covering several different types of operations.

These regulations need to be simplified and standardized. As they are now, the regulations vary based on several criteria:

- 1: Whether the operation is domestic or international
- 2: Whether the operation is Flag, or Supplemental
- 3: Whether the crew has 2, 3, or 4 (or more) pilots

Some of these classifications make sense and some of them don't.

If there is any intent in these regulations other than safety, they should be entirely repealed and responsibility for rest requirements returned to the carriers and/or unions.

If, however, the sole intent of these regulations is safety, they should be revised so they are actually safe. The quality of rest, flight and duty limitations is not affected based on the operator's decision to operate under a different part of the regulations, or domestically as opposed to internationally. Those factors should not influence variations in the amounts of rest, flight time, or duty time allowed.

If a safety-oriented set of regulations are going to be utilized, I believe there should be three types of limitations: flight time limitations, duty time limitations, and rest limitations. Variations in the amounts of each of those should only be applied when the conditions allowing the variation actually affect the minimum safe requirements of each. These are the factors that may affect the minimum safe quantities of flight, duty, and rest limitations:

1: Circadian rhythms – changes in circadian rhythms causes more fatigue given similar flight, duty, and rest limits. In some cases, having a longer rest period is actually detrimental to being rested. A set of limitations based on changing circadian rhythms should be developed which is more restrictive than those applied to circumstances where circadian rhythms are kept within reason of a 24 hour cycle.

2: Crew composition (i.e. 2-man, 3-man, 4-man) – additional crew compliment allows pilots to rest for a portion of their duty period. Because of those rest breaks, the crew can perform longer duty days and, as a result, longer flights. Limitations that vary with the size of the crew are reasonable. It should go without saying that rest facilities should be (and are) required to take advantage of heavy crew relief from normal flight, duty, and rest limitations.

3: Duty and rest durations – Much emphasis is placed on flight time in the current regulations. However, duty time and rest time are really the two most significant contributing factors to the ability to safely operate without fatigue. The current regulations have some provisions for allowing shorter rest periods if 'compensatory' rest is given after the next duty period. Another possible combination that would be reasonable would be a longer duty period followed by a longer rest period. Variations in rest and duty cycles, if kept on a reasonable circadian rhythm, could be allowed within reason.

My recommendation is to begin with a basic regulation starting with a 2-man crew with uniform circadian cycles (i.e. Roughly 24 hour days). The limitations could be extended for 3-man crews, and further for 4-man crews given rest facilities aboard the aircraft and specifying flight, duty, and rest limitations that are progressively more liberal.

A second set of regulations could be similarly crafted for operations with irregular circadian rhythms. Those regulations would need to be more restrictive than the above. Additionally, variations in the limitations could be allowed based on extra and/or compensatory rest as they are now.

This would end the illogical classifications of rules based on domestic vs. international operations and flag vs. supplemental operations. Also, crafting an entirely new set of regulations would simplify the currently complex rest regulations. The current regulations are difficult to remember and apply because they are numerous, sometimes vague, and variable.

I realize the unions and airlines have substantial economic and safety interests in this topic. I don't wish to embark on an exercise in futility so I will forgo the actual construction of a set of regulations that I believe would be safe and acceptable to the majority of the interested parties. If anyone at the FAA is interested in my specific opinions about how to craft a new set of rules, please don't hesitate to contact me.

Conclusion

Thank you for taking the time to read these few recommendations for changes to the Federal Aviation Regulations. I hope they are good suggestions that will lead to improvements in

aviation safety and, where applicable, improvements to freedom within a safe operating environment.

Sincerely,

Varrin Swearingen